

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

618Q0144

SENATE BILL NO. 196

Introduced by: Senators Howie, Abdallah, Gant, and Haverly and Representatives Verchio,
Kopp, Lederman, Lust, and Turbiville

1 FOR AN ACT ENTITLED, An Act to increase the sales and use tax and to allocate and
2 appropriate the increased revenue for property tax reduction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-2 be amended to read as follows:

5 10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a
6 retailer, a tax of ~~four~~ six percent upon the gross receipts of all sales of tangible personal property
7 consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold
8 at retail in the State of South Dakota to consumers or users.

9 Section 2. That § 10-45-5 be amended to read as follows:

10 10-45-5. There is imposed a tax at the rate of ~~four~~ six percent upon the gross receipts of any
11 person from engaging or continuing in any of the following businesses or services in this state:
12 abstracters; accountants; architects; barbers; beauty shops; bill collection services; blacksmith
13 shops; car washing; dry cleaning; dyeing; exterminators; garage and service stations; garment
14 alteration; cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry;



1 linen and towel supply; membership or entrance fees for the use of a facility or for the right to
2 purchase tangible personal property, any product transferred electronically, or services;
3 photography; photo developing and enlarging; tire recapping; welding and all repair services,
4 except farm machinery, farm attachment units, or irrigation equipment repair services; cable
5 television; and rentals of tangible personal property except leases of tangible personal property
6 between one telephone company and another telephone company, motor vehicles as defined by
7 § 32-5-1 leased under a single contract for more than twenty-eight days and mobile homes.
8 However, the specific enumeration of businesses and professions made in this section does not,
9 in any way, limit the scope and effect of § 10-45-4.

10 Section 3. That § 10-45-5.3 be amended to read as follows:

11 10-45-5.3. There is imposed, at the rate of ~~four~~ six percent, an excise tax on the gross
12 receipts of any person engaging in oil and gas field services (group no. 138) as enumerated in
13 the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy
14 Division of the Office of Management and Budget, Office of the President.

15 Section 4. That § 10-45-6 be amended to read as follows:

16 10-45-6. There is hereby imposed a tax of ~~four~~ six percent upon the gross receipts from
17 sales, furnishing, or service of gas, electricity, and water, including the gross receipts from such
18 sales by any municipal corporation furnishing gas, and electricity, to the public in its proprietary
19 capacity, except as otherwise provided in this chapter, when sold at retail in the State of South
20 Dakota to consumers or users.

21 Section 5. That § 10-45-6.1 be amended to read as follows:

22 10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed a tax of ~~four~~ six
23 percent upon the gross receipts from providing any telecommunication service that originates
24 or terminates in this state and that is billed or charged to a service address in this state, or that

both originates and terminates in this state. However, the tax imposed by this section does not apply to:

- (1) Any eight hundred or eight hundred type service unless the service both originates and terminates in this state;
- (2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or
- (3) Any sale of interstate telecommunication service provided to a call center that has been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the call center has provided to the telecommunications service provider an exemption certificate issued by the secretary indicating that it meets the criterion.

If a call center uses an exemption certificate to purchase services not meeting the criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

Section 6. That § 10-45-6.2 be amended to read as follows:

10-45-6.2. There is hereby imposed a tax of ~~four~~ six percent upon the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are deemed to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

Section 7. That § 10-45-8 be amended to read as follows:

1 10-45-8. There is imposed a tax of ~~four~~ six percent upon the gross receipts from all sales of
2 tickets or admissions to places of amusement and athletic contests or events, except as otherwise
3 provided in this chapter.

4 Section 8. That § 10-45-71 be amended to read as follows:

5 10-45-71. There is imposed a tax of ~~four~~ six percent on the gross receipts from the
6 transportation of passengers. The tax imposed by this section shall apply to any transportation
7 of passengers if the passenger boards and exits the mode of transportation within this state.

8 Section 9. That § 10-46-2.1 be amended to read as follows:

9 10-46-2.1. For the privilege of using services in South Dakota, except those types of services
10 exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal
11 to ~~four~~ six percent of the value of the services at the time they are rendered. However, this tax
12 may not be imposed on any service rendered by a related corporation as defined in subdivision
13 10-43-1(11) for use by a financial institution as defined in subdivision 10-43-1(4) or on any
14 service rendered by a financial institution as defined in subdivision 10-43-1(4) for use by a
15 related corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the
16 term related corporation includes a corporation which together with the financial institution is
17 part of a controlled group of corporations as defined in 26 U.S.C. § 1563 as in effect on January
18 1, 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C.
19 § 563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the
20 purpose of this chapter, services rendered by an employee for the use of his employer are not
21 taxable.

22 Section 10. That § 10-46-2.2 be amended to read as follows:

23 10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal
24 property and any product transferred electronically in this state at the rate of ~~four~~ six percent of

1 the rental payments upon the property.

2 Section 11. That § 10-46-58 be amended to read as follows:

3 10-46-58. There is imposed a tax of ~~four~~ six percent on the privilege of the use of any
4 transportation of passengers. The tax imposed by this section shall apply to any transportation
5 of passengers if the passenger boards and exits the mode of transportation within this state.

6 Section 12. That § 10-46-69 be amended to read as follows:

7 10-46-69. There is hereby imposed a tax of ~~four~~ six percent upon the privilege of the use of
8 mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that
9 originate and terminate in the same state and are billed to a customer with a place of primary
10 use in this state. Notwithstanding any other provision of this chapter and for purposes of the tax
11 imposed by this section, the tax imposed upon mobile telecommunication services shall be
12 administered in accordance with 4 U.S.C. §§ 116-126 as in effect on July 28, 2000.

13 Section 13. One-third of the revenue deposited in the general fund pursuant to the taxes
14 imposed pursuant to chapter 10-45 and 10-46 shall be transferred by the state treasurer to the
15 property tax reduction fund as created in § 10-13-44. The funds transferred to the property tax
16 reduction fund pursuant to this section shall be used for the purpose of lowering or eliminating
17 the general fund and special education levies of a school district.